



DME/JFW

Docket No. 52209-A-PCT-US/JPW/AJM/JCS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David M. Stern, et al.
Serial No. : 09/394,204 Group Art: 1647
Filed : September 10, 1999 Examiner: R. Hayes
For : INTRACELLULAR AMYLOID-BETA PEPTIDE BINDING (ERAB)
POLYPEPTIDE

1185 Avenue of the Americas
New York, New York 10036
March 11, 2005

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION TO REVIVE AN UNINTENTIONALLY
ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)**

This Petition is submitted to revive the above-identified application under 37 C.F.R. §1.137(b).

Requirements of Petition to Revive

A petition under 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless it has been previously filed;
- (2) the petition fee set forth in 37 C.F.R. §1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and
- (4) any terminal disclaimer (and fee set forth in §120(d)) required pursuant to 37 C.F.R. §1.137(d) for a utility application filed before June 8, 1995.

03/15/2005 AWONDAF1 00000141 09394204

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750.00 OP

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Required Reply Under 37 C.F.R. §1.137(b) (1)

A Notice of Draftperson's Patent Drawing Review was issued on April 10, 2002 in connection with the above-identified application. A response to the Notice of Draftperson's Patent Drawing Review was, with extension, due on October 10, 2002.

A Notice of Abandonment was issued by the United States Patent and Trademark Office on January 13, 2005. The Notice states that this application is abandoned in view of applicant's failure to submit corrected drawings in response to the Notice of Draftperson's Patent Drawing Review.

Without conceding the correctness of the Notice, but in order to expedite issuance of the subject application, applicants attach hereto as **Exhibit A** a Request for Continued Examination (RCE). The annexed RCE includes as a submission an Amendment Regarding April 10, 2002 Notice of Draftperson's Patent Drawing Review, including twenty-two (22) sheets of new, corrected formal drawings for Figures 1-7. Accordingly, the required reply is being submitted.

Petition Fee Required Under 37 C.F.R. §1.137(b) (2)

The required fee for filing a Petition under 37 C.F.R. §1.137(b) as set forth in 37 C.F.R. §1.17(m) is \$750.00 for a small entity, and applicants enclose a check for \$1145.00 which includes this amount and the \$395.00 fee for the accompanying RCE.

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**Statement that the Entire Delay in Filing the Required Reply
was Unintentional Under 37 C.F.R. §1.137(b)(3)**

The entire delay in filing the required reply, i.e. the attached Formal Drawings, from the October 10, 2002 due date until the filing of this petition pursuant to 37 C.F.R. §1.137(b), was unintentional.

Terminal Disclaimer Under 37 C.F.R. §1.137(b)(4)

Because the subject application was filed on September 1, 1999, which is after June 8, 1995, 37 C.F.R. §1.137(c) does not require any terminal disclaimer to be filed.

In view of the foregoing, applicants earnestly solicit an expeditious revival of the subject application so that it may proceed to issuance of a patent.

If a telephone interview would be of assistance in resolving any issue in connection with this petition, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

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No fee, other than the enclosed \$1145.00 sum, is deemed necessary in connection with the filing of this petition. If any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White
Registration No. 28,678
Alan J. Morrison
Registration No. 37,399
Attorneys for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

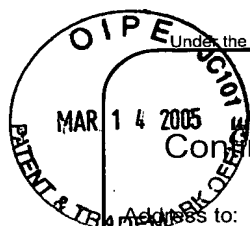
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Alan J. Morrison
Reg. No. 37,399

Date

3/11/05

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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/394,204
Filing Date	September 10, 1999
First Named Inventor	David M. Stern
Art Unit	1647
Examiner Name	R. Hayes
Attorney Docket Number	52209-A-PCT-US

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 03-3125
- i. ☐ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☒ Check in the amount of \$ 1,145.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Alan J. Morrison	Registration No. (Attorney/Agent)	37,399
Signature		Date	March 11, 2005

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Alan J. Morrison	Date	March 11, 2005
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/15/2005 AWONDAF1 00000141 09394204

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395.00 OP



Docket No. 52209-A-PCT-US/JPW/AJM/JCS

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Serial No. : 09/394,204

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Examiner: R. Hayes

For : INTRACELLULAR AMYLOID-BETA PEPTIDE BINDING (ERAB)
POLYPEPTIDE

1185 Avenue of the Americas
New York, New York 10036
March 11, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**AMENDMENT REGARDING APRIL 10, 2002
NOTICE OF DRAFTPERSON'S PATENT DRAWING REVIEW**

This Amendment is submitted to address certain informalities raised in an April 10, 2002 Notice of Draftperson's Patent Drawing Review. A copy of the Notice is attached hereto as **Exhibit 1**. This Amendment is made as a submission in connection with the accompanying Request for Continued Examination (RCE), which in turn is submitted in connection with the accompanying Petition to Revive. The enclosed check for \$1145.00 includes the \$395.00 RCE fee.

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Amendment to the Specification

Please replace the paragraph beginning on page 1, line 4 with the following amended paragraph:

This application is a continuation of PCT International Application No. PCT/US98/04915, filed 12 March 1998, designating the United States of America, which is claiming priority of U.S. Serial No. 08/815,225, filed March 12, 1997, now U.S. Patent No. 6,268,479, issued July 31, 2001, the contents of which are hereby incorporated by reference into the present application.

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Amendment to the Figures

Please replace sheets 1-22 for Figures 1-7 with new sheets 1-22
attached hereto as **Exhibit 2**.

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REMARKS

The Draftperson objected to Figure 1-7 under 37 C.F.R. §1.84.

In response, applicants submit twenty-two (22) sheets of new, corrected formal drawings for Figures 1-7.

Accordingly, applicants assert that the Draftperson's objection to Figures 1-7 has been overcome.

Summary

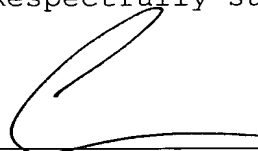
In view of the remarks made herein, applicants maintain that the claims pending in this application are in condition for allowance. Accordingly, allowance is respectfully requested.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

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No fee, other than the enclosed \$1145.00 sum, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White
Registration No. 28,678
Alan J. Morrison
Registration No. 37,399
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1185 Avenue of the Americas
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(212) 278-0400

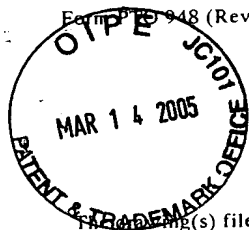
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Alan J. Morrison
Reg. No. 37,399

3/11/01
Date

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW



Drawing(s) filed (insert date) 9-10-99 are:

- A. ☐ approved by the Draftsperson under 37 CFR 1.84 or 1.152.
 B. ☒ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

Black ink. Color.

Color drawings are not acceptable until petition is granted.

Fig(s) _____

Pencil and non black ink not permitted. Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84 (b)

1 full-tone set is required. Fig(s) _____

Photographs not properly mounted (must use bristol board or

photographic double-weight paper). Fig(s) _____

Poor quality (half-tone). Fig(s) 15, 14, 3A-5A, 5C-6B,

3. TYPE OF PAPER. 37 CFR 1.84(e)

Paper not flexible, strong, white, and durable.

Fig(s) _____

Erasures, alterations, overwritings, interlineations,

folds, copy machine marks not accepted. Fig(s) _____

Mylar, velum paper is not acceptable (too thin).

Fig(s) _____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4)

21.6 cm by 27.9 cm (8 1/2 x 11 inches)

All drawing sheets not the same size.

Sheet(s) _____

Drawings sheets not an acceptable size. Fig(s) _____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5cm Right 1.5 cm Bottom 1.0 cm

SIZE: A4 Size

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: 8 1/2 x 11

Margins not acceptable. Fig(s) _____

Top (T) _____ Left (L)

Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

Partial views. 37 CFR 1.84(h)(2)

Brackets needed to show figure as one entity.

Fig(s) _____

Views not labeled separately or properly.

Fig(s) _____

Enlarged view not labeled separately or properly.

Fig(s) _____

7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)

Hatching not indicated for sectional portions of an object.

Fig(s) _____

Sectional designation should be noted with Arabic or

Roman numbers. Fig(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) _____

9. SCALE. 37 CFR 1.84(k)

Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction.

Fig(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS.

37 CFR 1.84(i)

Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality).

Fig(s) 1-7

11. SHADING. 37 CFR 1.84(m)

Solid black areas pale. Fig(s) _____

Solid black shading not permitted. Fig(s) _____

Shade lines, pale, rough and blurred. Fig(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.

37 CFR 1.84(p)

Numbers and reference characters not plain and legible.

Fig(s) 1-7

Figure legends are poor. Fig(s) 1B-7

Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1)

Fig(s) _____

English alphabet not used. 37 CFR 1.84(p)(2)

Figs _____

Numbers, letters and reference characters must be at least

.32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3)

Fig(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

Lead lines cross each other. Fig(s) _____

Lead lines missing. Fig(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Sheet(s) _____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

Corrections not made from prior PTO-948

dated _____

17. DESIGN DRAWINGS. 37 CFR 1.152

Surface shading shown not appropriate. Fig(s) _____

Solid black shading not used for color contrast.

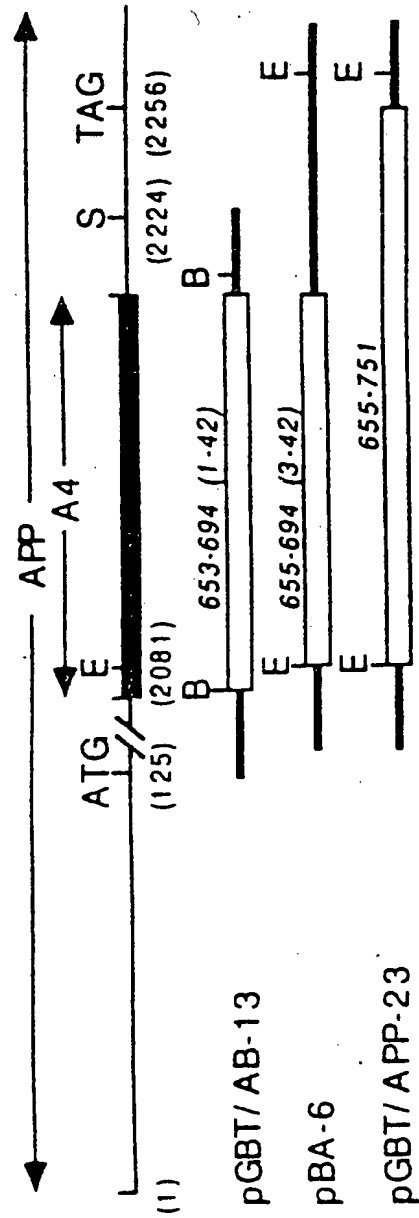
Fig(s) _____

COMMENTS



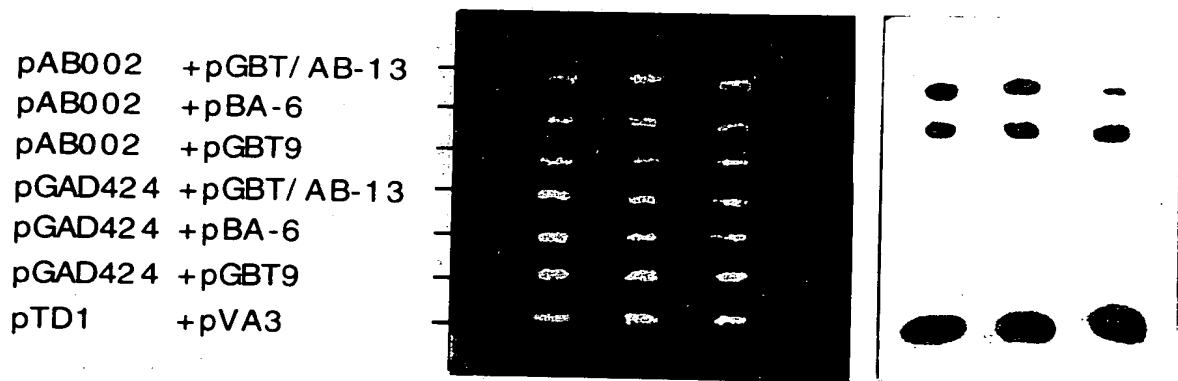
1/22

FIGURE 1A



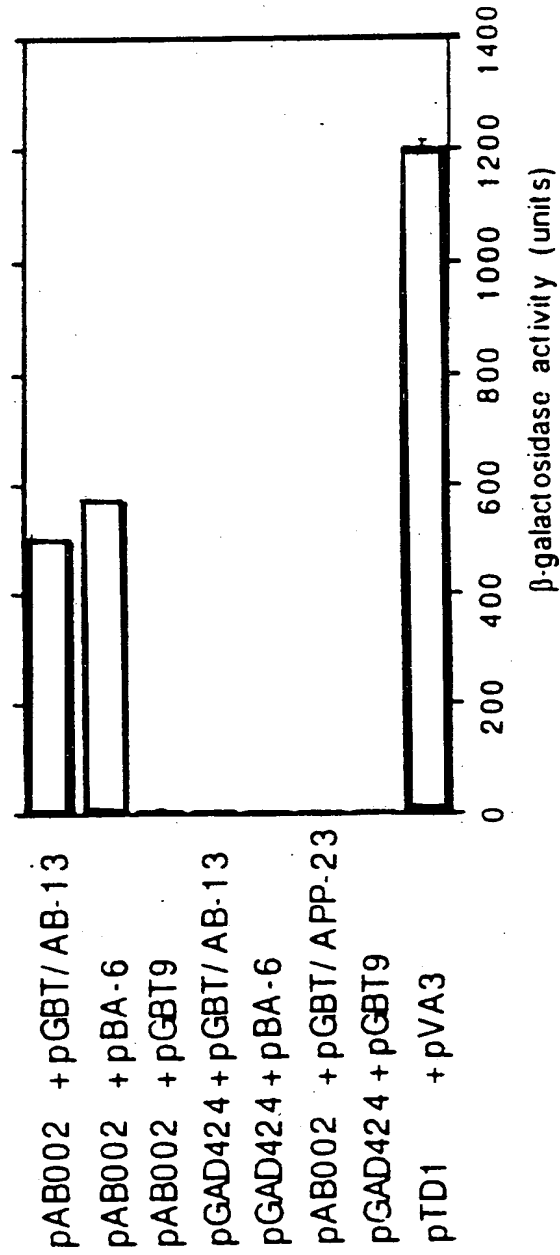
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FIGURE 1B



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FIGURE 1C



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FIGURE 1D

GGAGTGGCCGCGGACAAG 18

ATG GCA GCA GCG TGT CGG AGC GTG AAG GGC CTG GTG GCG GTA ATA ACC 66
M A A A C R S V K G L V A V I T

GGA GGA GCC TCG GGC CTG GGC CTG GCC ACG GCG GAG CGA CTT GTG GGG 114
G G A S G L G L A T A E R L V G

CAG GGA GCC TCT GCT GTG CTT CTG GAC CTG CCC AAC TCG GGT GGG GAG 162
O G A S A V L L D L P N S G G E

GCC CAA GCC AAG AAG TTA GGA AAC AAC TGC GTT TTC GCC CCA GCC GAC 210
A O A K K L G N N C V F A P A D

GTG ACC TCT GAG AAG GAT GTG CAA ACA GCT CTG GCT CTA GCA AAA GGA 258
V T S E K D V Q T A L A L A K G

AAG TTT GGC CGT GTG GAT GTA GCT GTC AAC TGT GCA GGC ATC GCG GTG 306
K F G R V D V A V N C A G I A V

GCT AGC AAG ACG TAC AAC TTA AAG AAG GGC CAG ACC CAT ACC TTG GAA 354
A S K T Y N L K K G Q T H T L E

GAC TTC CAG CGA GTT CTT GAT GTG AAT CTC ATG GGC ACC TTC AAT GTG 402
D F Q R V L D V N L M G T F N V

ATC CGC CTG GTG GCT GGT GAG ATG GGC CAG AAT GAA CCA GAC CAG GGA 450
I R L V A G E M G Q N E P D O G

GGC CAA CGT GGG GTC ATC ATC AAC ACT GCC AGT GTG GCT GCC TTC GAG 498
G O R G V I I N T A S V A A F E

GGT CAG GTT GGA CAA GCT GCA TAC TCT GCT TCC AAG GGG GGA ATA GTG 546
G O V G O A A Y S A S K G G I V

GGC ATG ACA CTG CCC ATT GCT CGG GAT CTG GCT CCC ATA GGT ATC CGG 594
G M T L P I A R D L A P I G I R

GTG ATG ACC ATT GCC CCA GGT CTG TTT GGC ACC CCA CTG CTG ACC AGC 642
V M T I A P G L F G T P L L T S

CTC CCA GAG AAA GTG TGC AAC TTC TTG GCC AGC CAA GTG CCC TTC CCT 690
L P E K V C N F L A S Q V P F P

AGC CGA CTG GGT GAC CCT GCT GAG TAT GCT CAC CTC GTA CAG GCC ATC 738
S R L G D P A E Y A H L V O A I

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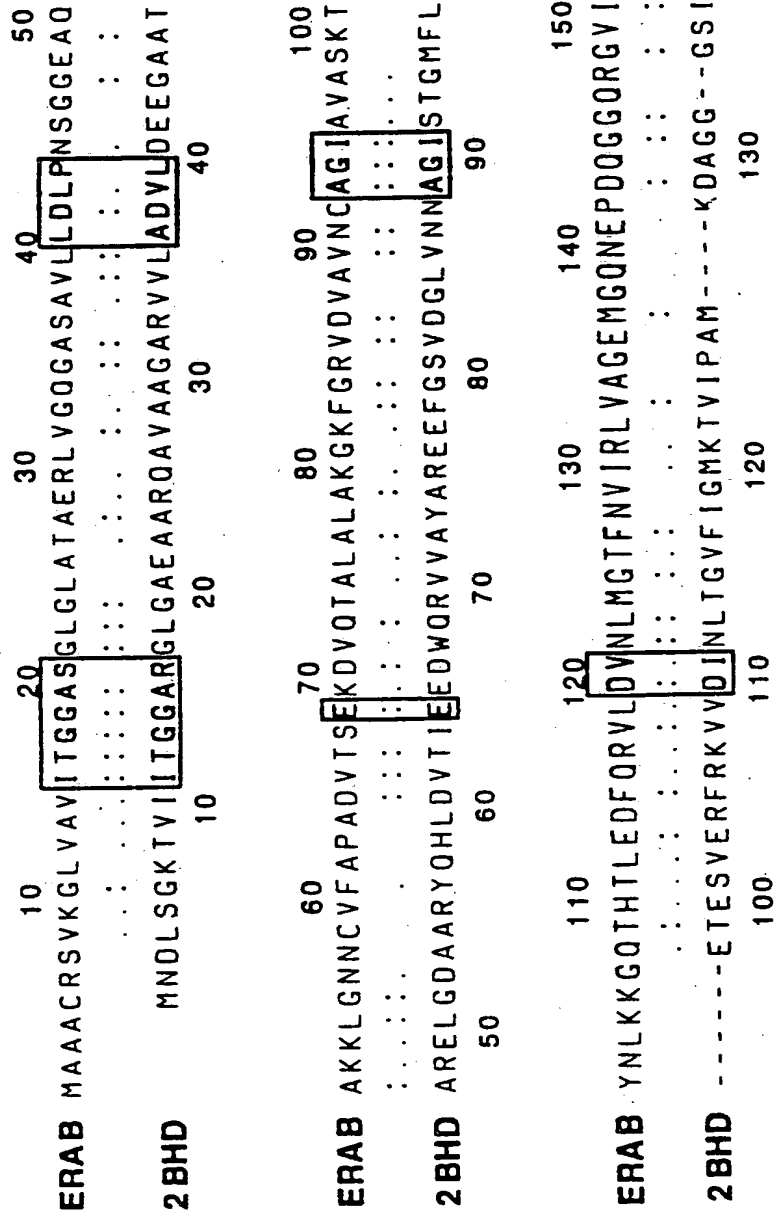
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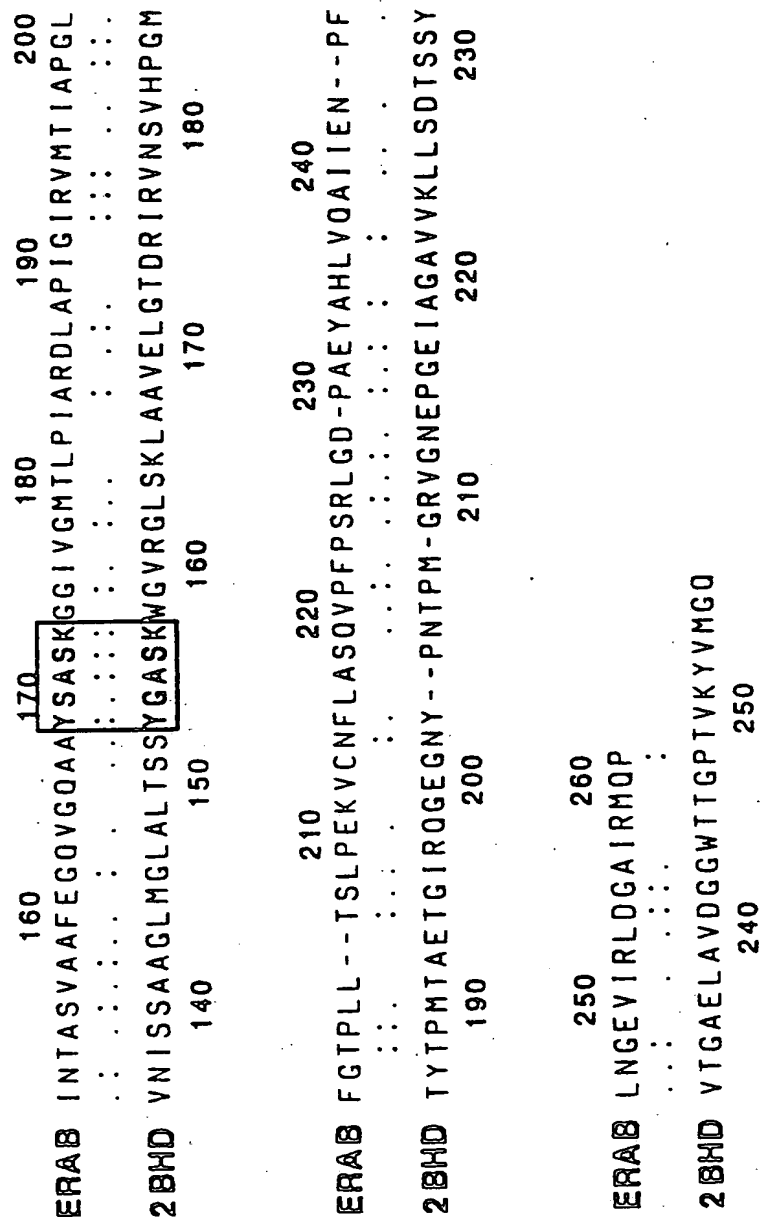
5/22

FIGURE 1E-1



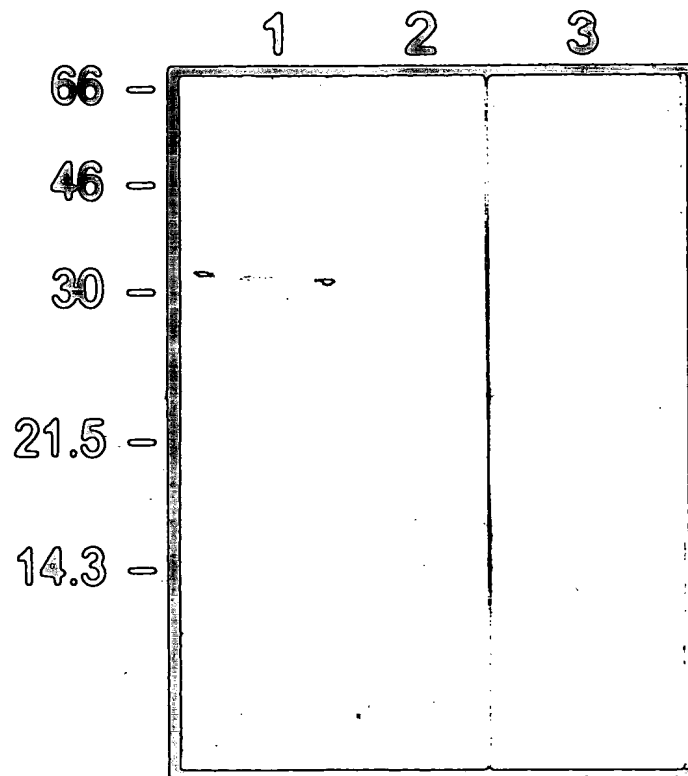
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FIGURE 1E-2



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FIGURE 2A



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FIGURE 2B

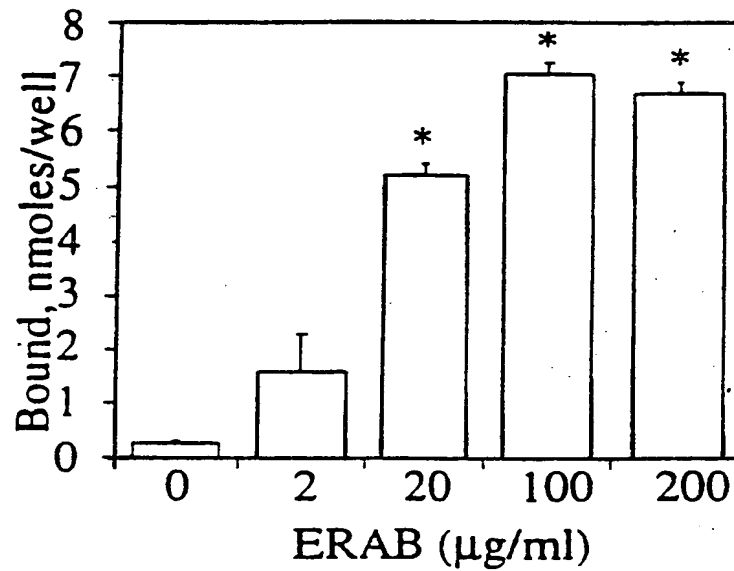
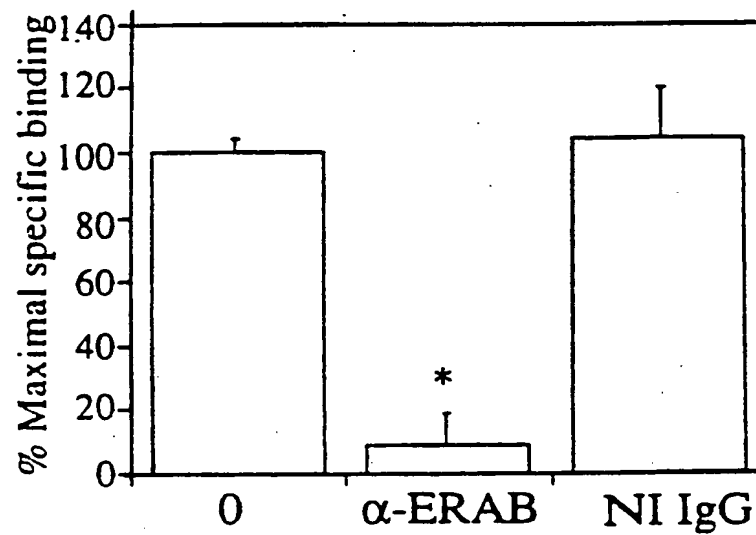


FIGURE 2C



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FIGURE 2D

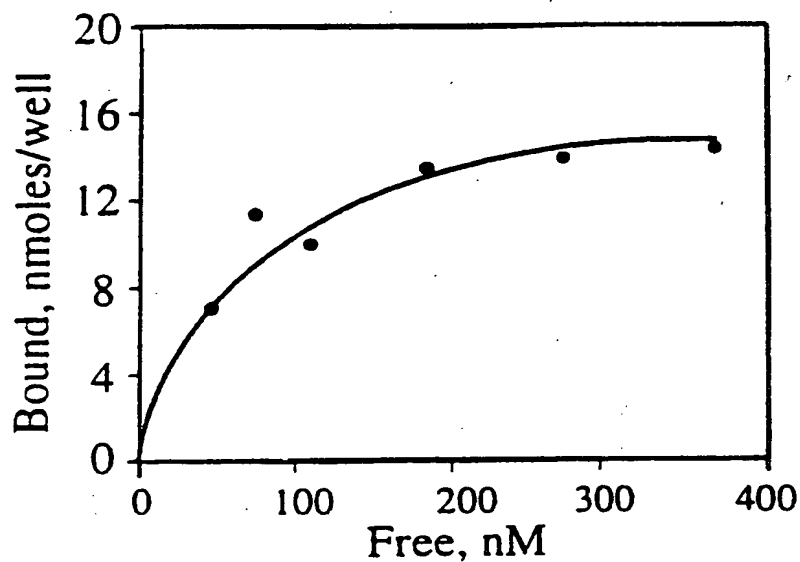
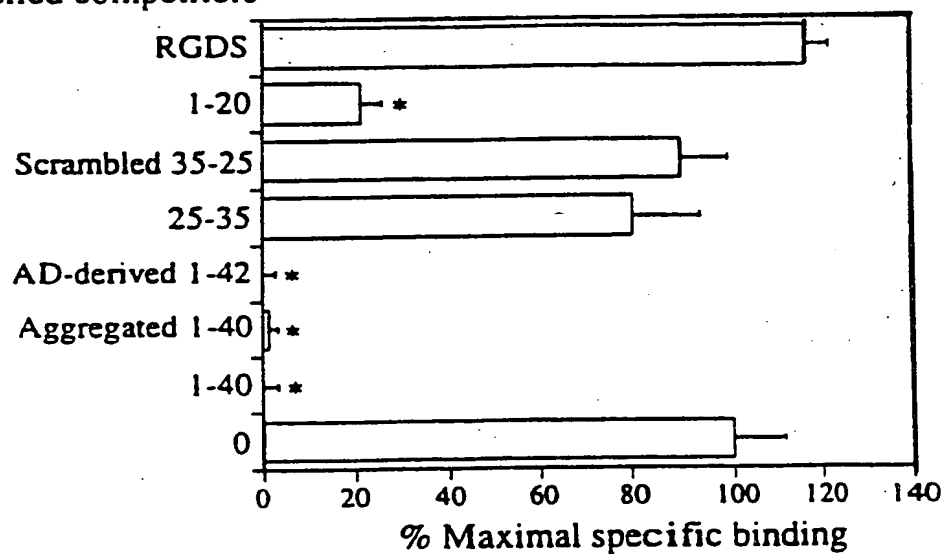


FIGURE 2E

Unlabelled competitors



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FIGURE 2F

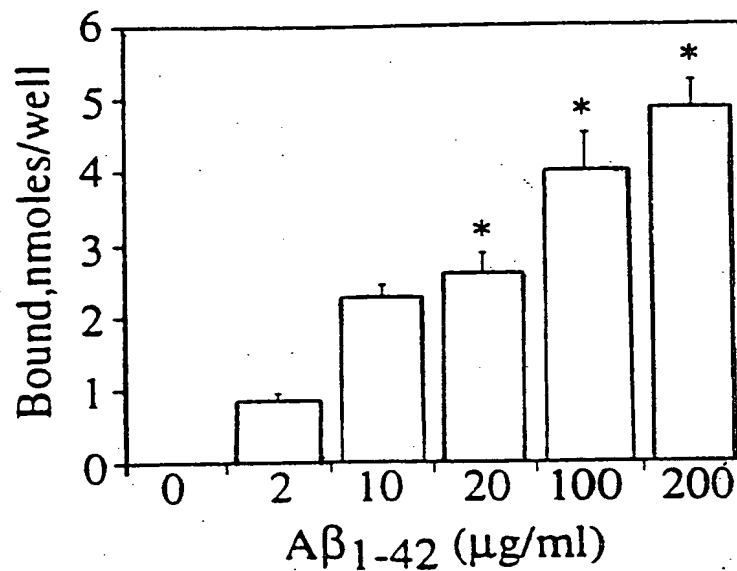
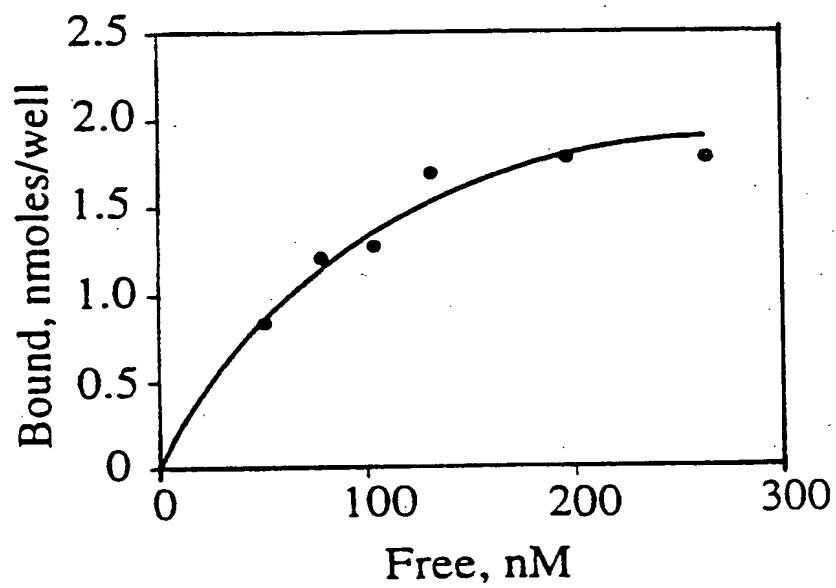


FIGURE 2G



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FIGURE 3A

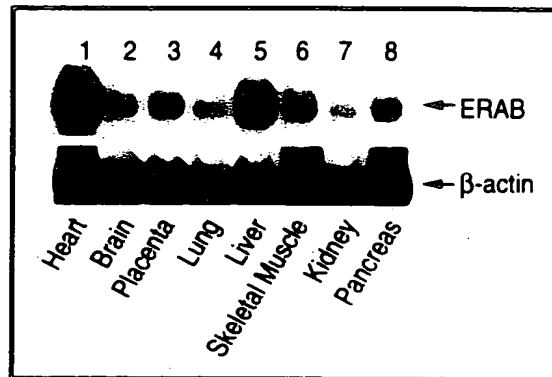


FIGURE 3B

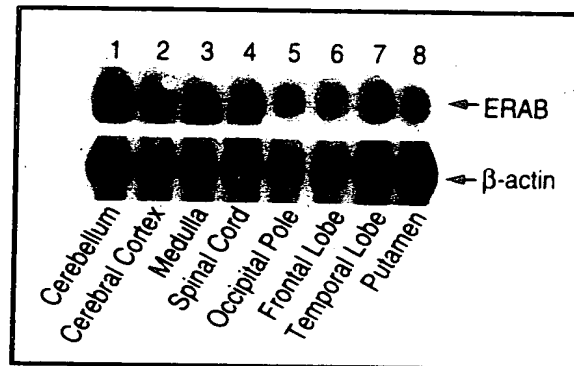
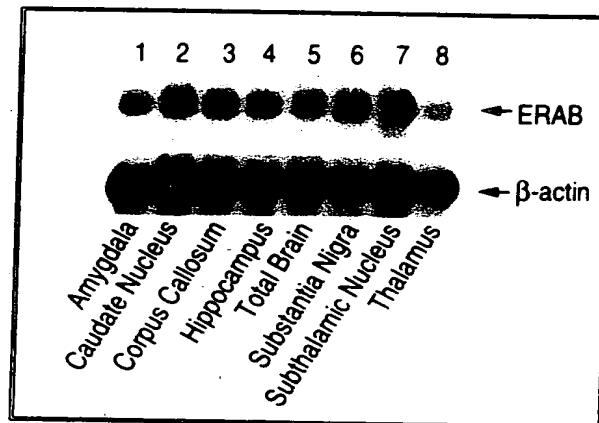


FIGURE 3C



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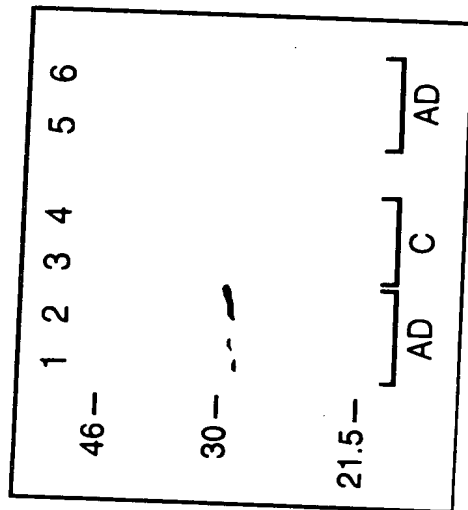


FIGURE 3D

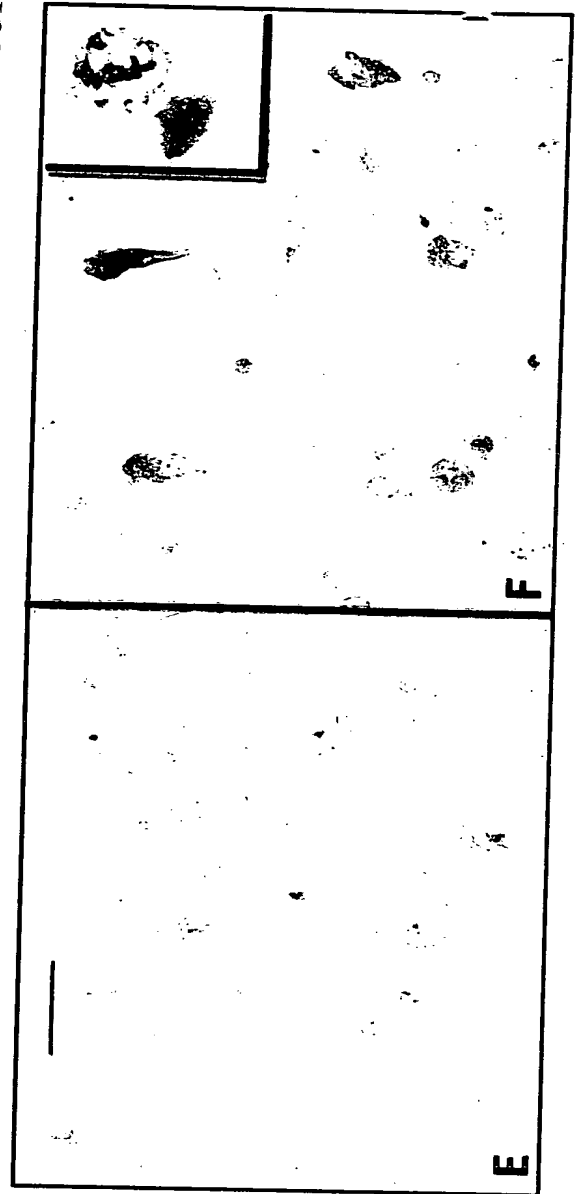


FIGURE 3E

FIGURE 3F-1

FIGURE 3F-2

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FIGURE 4A

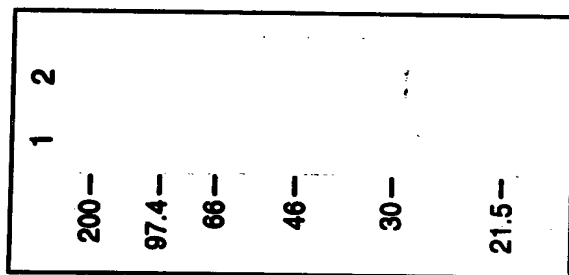


FIGURE 4B

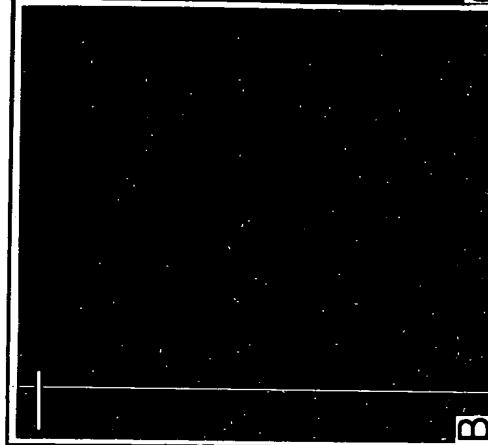


FIGURE 4C

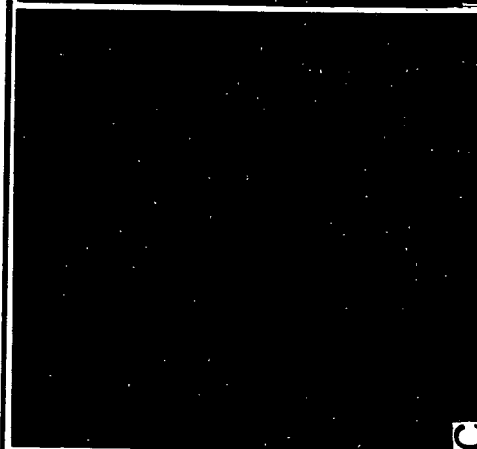


FIGURE 4D



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FIGURE 4G



FIGURE 4F

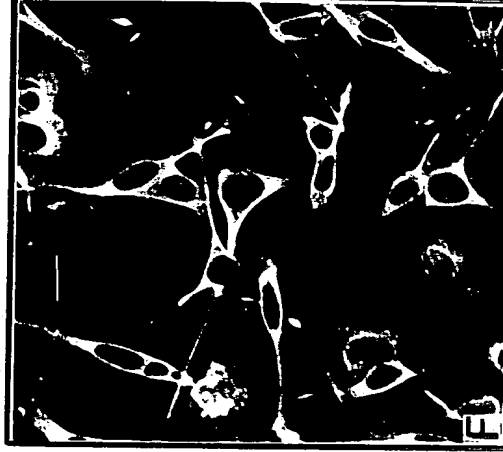
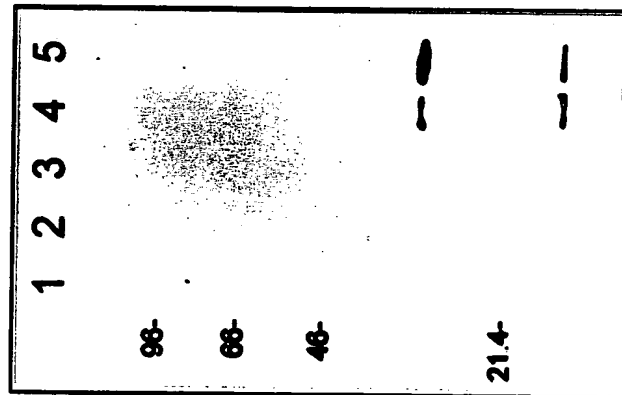


FIGURE 4E



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FIGURE 4H

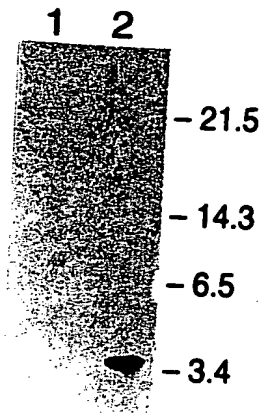
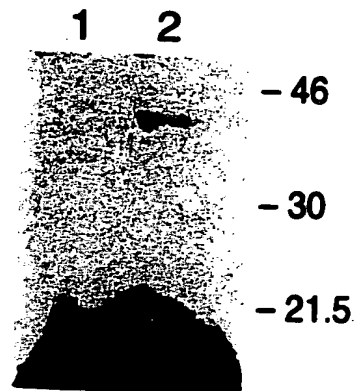
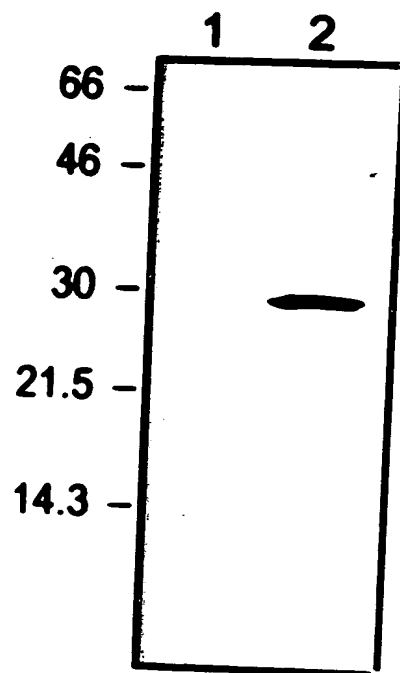


FIGURE 4I



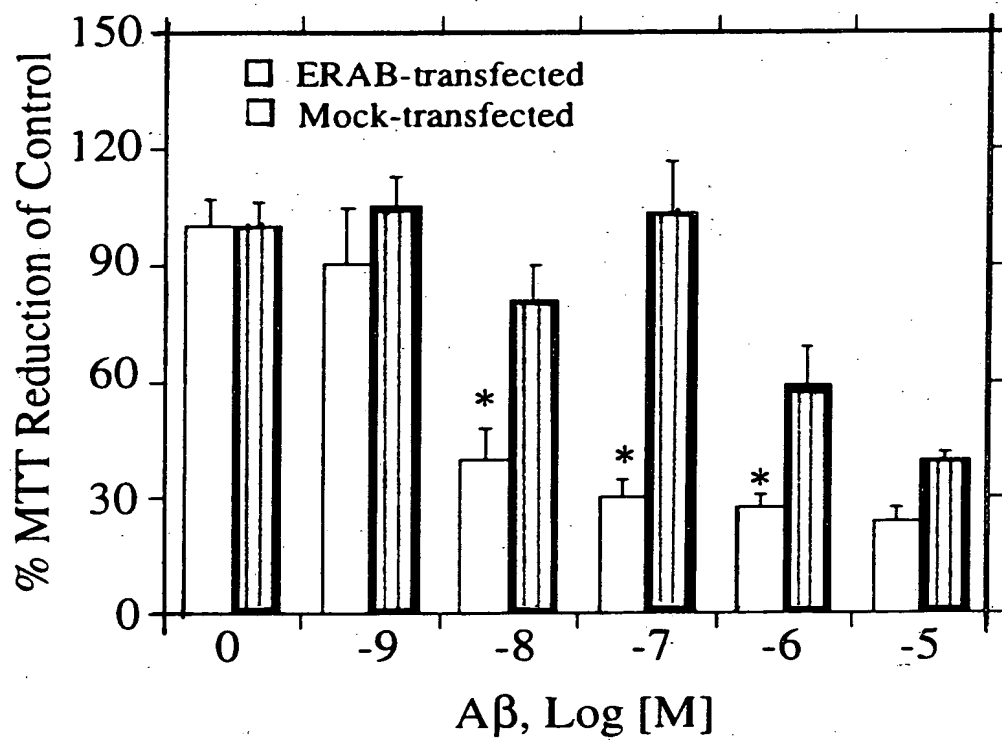
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FIGURE 5A



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FIGURE 5B



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FIGURE 5F



FIGURE 5E

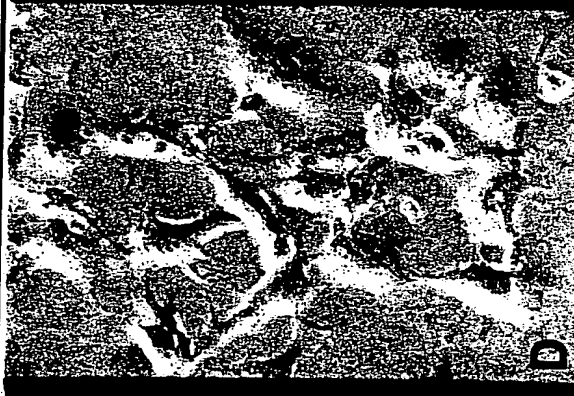


FIGURE 5D

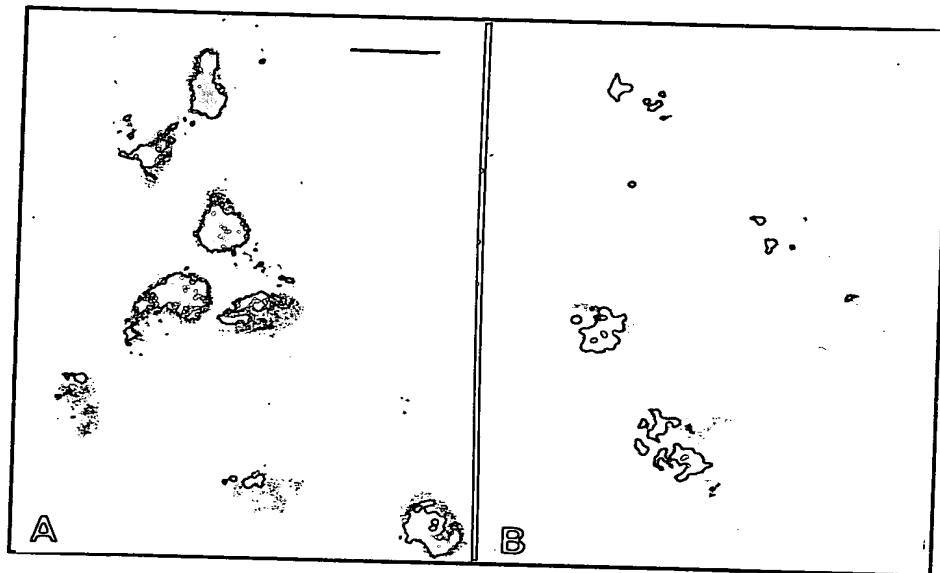


FIGURE 5C

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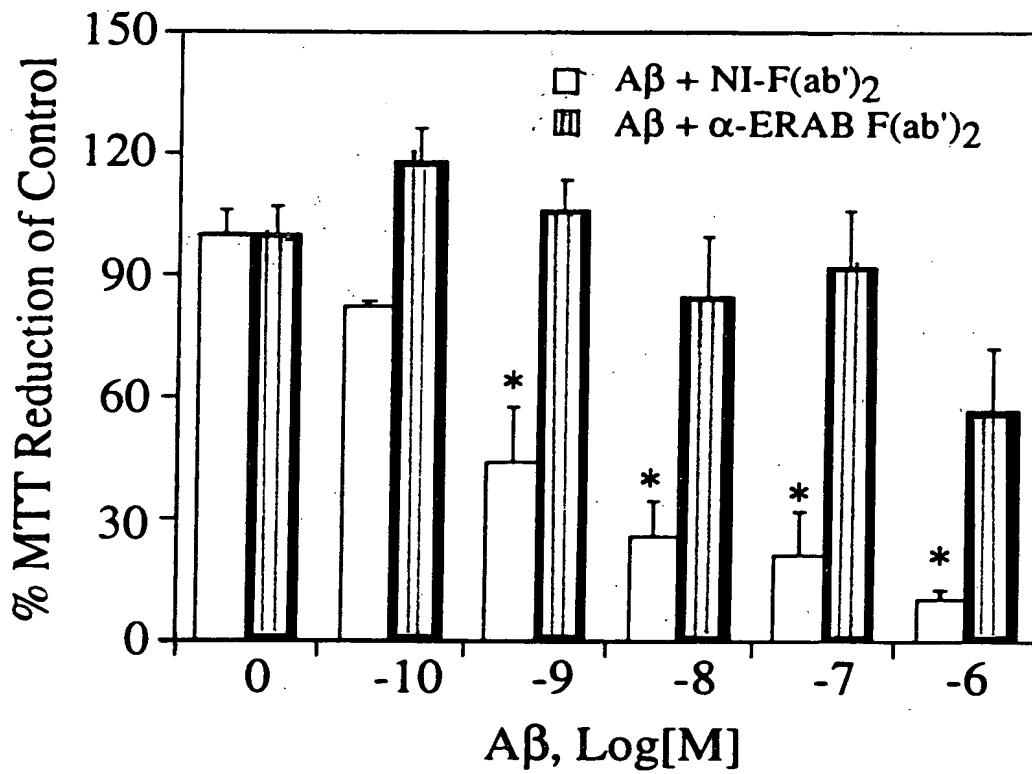
FIGURE 6A

FIGURE 6B



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FIGURE 6C



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FIGURE 6G

FIGURE 6F

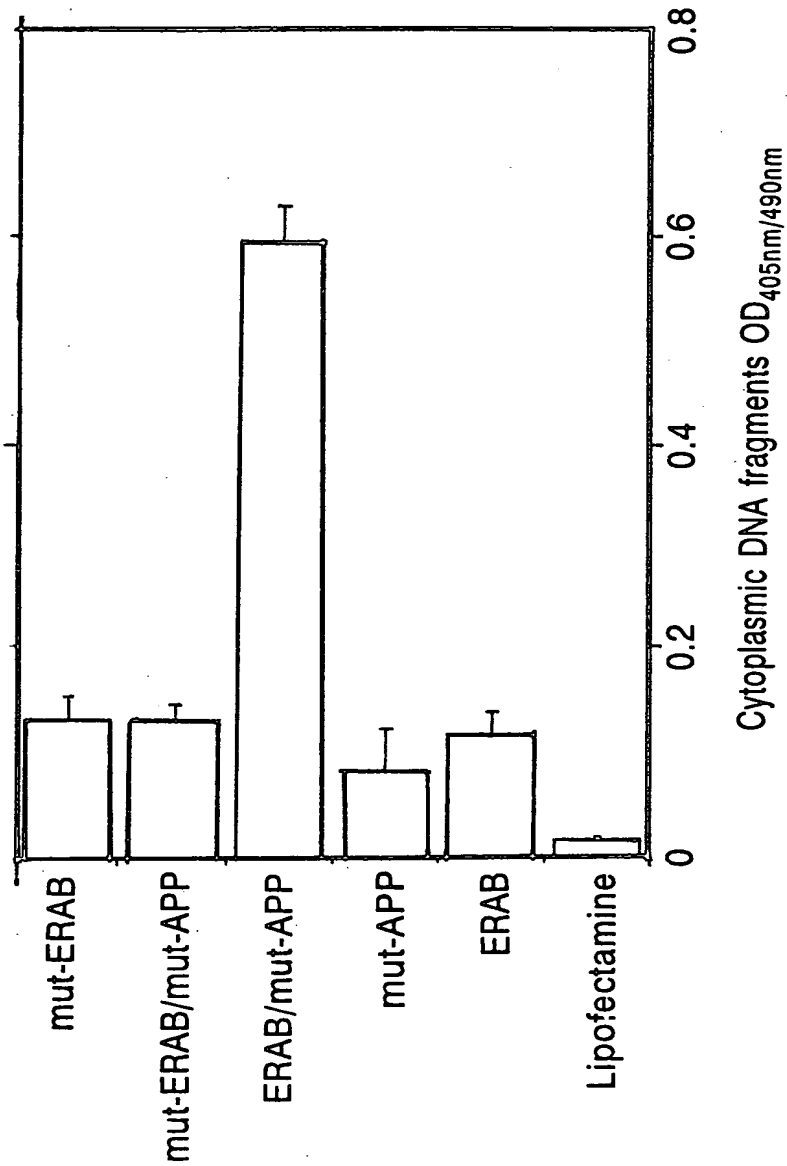
FIGURE 6E

FIGURE 6D



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FIGURE 7



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